

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

SAMSON TUG AND BARGE CO.,
INC., an Alaska Corporation,

Plaintiff/Appellant,

vs.

Civil No. A03-006 CV(JWS)

UNITED STATES OF AMERICA, IN ADMIRALTY

acting by and through

the UNITED STATES DEPARTMENT
of the NAVY MILITARY SEALIFT
COMMAND, and UNITED STATES
DEPARTMENT OF THE ARMY
MILITARY TRAFFIC MANAGEMENT
COMMAND,

CERTIFIED
COPY

Defendants/Appellees.

DEPOSITION DE BENE ESSE OF ROBERT J. CLARK

San Francisco, California

Tuesday, April 10, 2007

Volume 1

Reported by:

DIANE M. GALLAGHER, RPR

CSR No. Michigan 2191

JOB No. 3-60770

Exhibit 11
61

EXAMINATION

BY MS. FRANKEN:

Q Please state your full name for the record.

A Robert Joseph Clark.

Q Where do you reside, Mr. Clark?

A Auburn, California.

Q What is your address, please?

A 1287 Arrow Court, A-R-R-O-W, Court, Auburn,
95602.

Q Are you currently employed?

A Yes.

Q What is your current position?

A I'm a director of West Coast operations for a
defense contractor.

Q And the name of that company?

A Vision Technologies.

Q What kind of work, in a very brief way, does
Vision Technologies do?

A Vision Technologies builds military specific
pan and tilt thermal imaging and electro-optic systems
for use on combat vehicles, ships, primarily for day and
night surveillance, and we have other special
applications military and commercial related.

Q How long have you worked for them?

A About 18 months.

0:29 1 Q Does your work cause you to travel?
2 A Yes, it does.
3 Q What kind of travel do you do?
4 A International travel as well as coast to coast.
0:30 5 Q Have you served in the United States Navy?
6 A Yes.
7 Q What years did you serve?
8 A 1971 to 1995.
9 Q What was your rank when you retired?
10:30 10 A Lieutenant Commander.
11 Q Perhaps I should ask, did you retire?
12 A Yes, I did.
13 Q What kind of work did you do in the Navy?
14 A In the Navy initially I was an air crewman. I
10:30 15 flew in C-118's, old cargo aircraft, C-9's, H-3's,
16 H-1's, primarily helicopters and fixed transport
17 aircraft; and as a pilot, I was a helicopter pilot,
18 flew H-46's, UH-^{IN}~~H~~'s, November model, and I flew T-28's,
19 OH-57's, and some other aircraft that I did some test
10:31 20 flying at the depot in.
21 Q Do you have a college degree?
22 A Yes, I do.
23 Q Where is it from?
24 A San Jose State University, a Bachelor of
10:31 25 Science in Aeronautics.

10:35 1 appeared to be extremely hard of hearing and the
2 plaintiff's lawyer told me that we did have to use that
3 court reporter because of the ADA. Now I think there
4 may be some limits, but maybe I'm wrong.

10:35 5 Q (BY MS. FRANKEN) So now with that said, I
6 think you brought us up to 1978 when you worked as an
7 air crewman.

8 After that time is most of your service time
9 then as a pilot?

10:35 10 A All of it.

11 Q Where were you serving between 1995 and 1997?

12 A I was with, I was on the staff [↑]commander Naval
13 Air Force US Pacific fleet, San Diego, California.

14 Q Were you actually stationed in San Diego?

10:36 15 A Yes.

16 Q What was your job at that time?

17 A I was a base realignment and closure officer
18 for all Pacific [↑]fleet Naval air stations.

19 Q What did that include?

10:36 20 A That included all Naval air stations west of
21 the Mississippi out to Guam. So it would have been
22 Naval Air Station Agana, Guam; Naval Air Station Barbers
23 Point, Hawaii; the realignment at Marine Corps Air
24 Station Kaneohe, K-A-N-E-O-H-E; the realignment Naval
25 Air Station ^{Lemoore} Lamoore; the realignment of Naval Air Station

1 Point Mugu.

2 Q Can you spell that?

3 A Point Mugu, M-U-G-U out of Ventura.

4 Let's see, Naval Air Station Miramar, closu
5 of Miramar and realignment to the United States Mari
6 Corps.

7 Q Spell that.

8 A M-I-R-A-M-A-R.

9 The realignment at Corpus Christi Texas Naval
10 Air Station. The closure of Naval Air Station Moffett
11 Field.

12 Q Spell that, please.

13 A M-O-F-F-E-T-T. The closure of Naval Air
14 Station Alameda.

15 The realignment of Naval Air Station Whidbey
16 Island. The closure of NAF ADAK, A-D-A-K.

17 I am leaving out one. Realignment of Naval Air
18 Station Fallon, F-A-L-L-O-N, Nevada.

19 Q Something in El Centro?

20 A Yeah. The realignment of Naval Air Facility
21 El Centro.

22 Q Is there something in Oceania?

23 A Yes. Oceania we were involved when we moved
24 the F-14 from Miramar to Naval Air Station Oceania.

25 Q Does that cover all of the Naval facilities

10:38 1 that you had involvement with while a military officer
2 either with closure or realignment?

3 A Yes. There was some additional work done with
4 the shipyard at Long Beach and with the shipyards at
10:38 5 Bremerton with regard to the CVN home porting plan, but
6 I was not directly responsible for that. I just
7 provided additional help.

8 Q And that's the letters CVN?

9 A CVN.

10:38 10 Q Is that yes?

11 A Yes. CVN home porting plan, it was the home
12 porting plan -- CVNs were the aircraft carriers, nuclear
13 aircraft ~~careers~~^{CARRIERS}, and it was the home porting plan that
14 moved some of the carriers from Alameda up to Bremerton
10:39 15 and the effect that the closure of the shipyard at Long
16 Beach would have on the ^{Controlled INDUSTRIAL} facilities up at Bremerton and
17 what ^{SHIPYARD FACILITIES} they had ~~expanded~~^{to} at Puget Sound Naval Shipyard.

18 Q When in 1995 did you start that job?

19 A I started that job in ~~actually in~~ '93, May of
10:39 20 '93.

21 Q And when did you leave that job?

22 A I left it, I retired from active duty November
23 '95; however, I was hired immediately by AIRPAC under a
24 contract to continue as the director of base realignment
10:39 25 and closure through, ~~I think~~ I left there in November of

1 '97.

2 So I did two years military, two years as a
3 civilian contractor. In effect, on a Friday I was in a
4 military uniform, and when I returned on Monday, wearing
10:40 5 a coat and tie.

6 Q Were you still designated the base realignment
7 and closure officer for PAC fleet?

8 A Yes.

9 Q Did you continue to work out of San Diego?

10:40 10 A Yes. I was still part of the staff.

11 Q But your retirement in November of '95, then,
12 just meant that you moved over to a contracting job?

13 A That's correct.

14 Q What all did your work entail as base
10:40 15 realignment and closure officer for Pacific Fleet out of
16 San Diego?

17 A Each base was different, depending upon what
18 was going on.

19 For the closing bases, I interfaced with a wide
10:40 20 variety of federal agencies, state agencies, local reuse
21 authorities, they're LRA's is the abbreviation.

22 I coordinated the movement of tenant commands
23 from losing bases to gaining bases.

24 I had a budgetary responsibility. We had a
10:40 25 total budget of \$680 million.

1 I would represent AIRPAC at budget hearings in
2 Washington, D.C., under supervision of CINCPACFLT,
3 Commander in Chief Pacific Fleet, had the overall
4 responsibility for all Pacific Fleet BRAC actions. We
5 were subordinate to them.

6 Q Let me stop you just a second because we have
7 gotten several acronyms, which the Navy has many of.
8 When you say BRAC, B-R-A-C, all caps, no periods, is
9 that Base Realignment --

10 A Base Realignment and Closure.

11 Q So when you use the term BRAC, you are saying
12 B-R-A-C?

13 A Yes.

14 Q Okay. And the other one was CINCPACFLT, all
15 caps, S-Y-N-C --

16 A No. C --

17 Q C-I-N-C --

18 A C-I-N-C. CINCPACFLT is Commander in Chief
19 United States Pacific Fleet.

20 Q And it's abbreviated C-I-N-C --

21 THE REPORTER: Just one minute. CINCPAC is?

22 THE WITNESS: C-I-N-C-P-A-C-F-L-T.

23 THE REPORTER Okay. Thank you.

24 Q (BY MS. FRANKEN) And what does it stand for,
25 once again?

10:42 1 A Commander in Chief United States Pacific Fleet.

2 Q Now, were you done with your answer about what
3 you did as a base realignment and closure officer? ^u

4 A The other things I did with regard to ~~Barbers~~ ^{ALAMEDA}
5 ~~Point, Hawaii~~ ^{NAVAL AIR STATION} and Adak, I was the Navy's ex-officio
6 member to the local reuse authorities to help them
7 coordinate the transition from a closing base to
8 civilian operation.

9 Q I am sorry, what does it mean to be an
10:42 10 ex-officio member to the local reuse authority, which
11 you're often calling LRA?

12 A LRA. Yes. What that entailed is I would
13 attend LRA meetings, public meetings. I would provide
14 the community answers to specific military questions.
10:42 15 It's rather difficult to explain.

16 They would ask, for example, the type of
17 facilities that were out there, what those facilities
18 were used for, how the facilities could be converted
19 which I, I was not an expert on converting a specific
10:43 20 facility into something else, but I would give them the
21 generalities of what the current facility contained, if
22 I knew, or I would find them the answers.

23 I would provide military mission-specific
24 information, if they needed to know frequencies of
10:43 25 flights, what the harbors could contain, what type of

10:43 1 ships they may have tied up.

2 I was kind of like -- I provided answers to
3 their questions about the construct of the base, how the
4 base was currently used, various facilities on the base,
10:43 5 things of that nature, what type of, what the rules were
6 with regard to the BRIM, which is the Base Reutilization
7 Information Manual, I believe is what the acronym stands
8 for.

9 What the BRIM provided, guidelines on how
10:44 10 personal property would be transferred over to LRA's,
11 things of that nature.

12 Q You said you did that at both Adak and one
13 other facility?

14 A ^{Alameda} Naval Air Station ~~Barbers Point~~ and some of it
10:44 15 at Naval Air Station ^{BARBERS POINT} ~~Alameda~~ as well.

16 Q And Barbers Point was in?

17 A Hawaii.

18 Q Did you have occasion to travel to Adak while
19 you were the BRAC officer from AIRPAC?

10:44 20 A Yes. On a number of occasions.

21 Q Do you know how many times?

22 A Oh, gee, 10, 15. I really couldn't give you
23 an accurate number. It was quite a few times.

24 Q When did you stop being involved in the closure
10:45 25 of Adak?

:45 1 A Let's see Adak -- CINCPACFLT transferred the
2 control of Adak on April 1st of 1997. I was still
3 involved in some aspects of it, probably through the
4 middle of the summer, July, August time frame. When I
:45 5 specifically quit doing anything with that, I couldn't
6 give you an exact answer, probably around the July,
7 August time frame of 1997.

8 Q What do you mean that CINCPACFLT transferred
9 control on April the 1st of 1997?

:45 10 A CINCPACFLT and Naval Facilities Engineering
11 Command, known as NAVFAC, wrote a Memorandum of
12 Understanding for the transfer of NAF Adak to NAVFAC for
13 the environmental cleanup so operational control on
14 April 1st transitioned from CINCPACFLT to NAVFAC and the
0:46 15 instrument they used was that memorandum of
16 understanding so the budgetary requirements, the funds
17 that were left for cleanup in CINCPACFLT's domain were
18 then transferred over to NAVFAC. NAVFAC had their own
19 separate budget as well for the environmental cleanup of
10:46 20 it, and at that time we transitioned all of that
21 responsibility to NAVFAC.

22 Q CINCPACFLT had Adak when it was a Naval Air
23 Facility?

24 A It went from Naval Air Station to Naval Air
10:46 25 Facility. It was downgraded. I don't recall the time

10:47 1 frame, it was the early '90s, when it went from an
2 accompanied tour, where they had families on the island,
3 to an unaccompanied tour, where it was strictly military
4 personnel, and the tour of duty went from three years
10:47 5 down to one year tour of duty.

6 Q So sometime in the early '90s, Naval Air
7 Station, what you call NAS Adak --

8 A Yes.

9 Q -- changed from being a Naval Air Station to
10:47 10 being a Naval Air Facility, NAF, is that right?

11 A Yes. That's correct.

12 Q And at some point when that happened it changed
13 from being an accompanied tour to being an unaccompanied
14 tour?

10:47 15 A Yes.

16 Q In either of those two designations, NAS or
17 NAF, CINCPACFLT was still the parent command?

18 A Yes. CINCPACFLT was the ^{major} ~~senior~~ command.

19 Q But when operational closure came on April the
10:48 20 1st, '97, are you then saying that operational control
21 was changed from CINCPACFLT in San Diego?

22 A No. CINCPACFLT is in Pearl Harbor.

23 Q From CINCPACFLT in Pearl Harbor?

24 A Yes.

10:48 25 Q To NAVFAC in the Seattle area?

0:49 1 Adak, and they were under the southwest division of
2 NAVFAC out of San Diego, who was under NAVFAC
3 headquarters Washington, D.C.

4 Q Do you know when the actual closure of Adak
5 began?

6 A It was, BRAC announced it in, I believe the
7 announcement date was '95. I don't recall the specific
8 date, April of '95. I don't recall the specific date.
9 Whenever the overall BRAC list came out.

10 What the BRAC list was, it was -- the BRAC
11 process went through Congress. Congress had to approve
12 all of the things the military put on the list.

13 Once the list was approved, then Congress
14 released the approval list.

15 On that approval list, it listed all of those
16 actions under BRAC '95, which was the law, BRAC '95, and
17 all of those different facilities that were affected by
18 it.

19 NAF Adak was at that time scheduled for closure
20 under BRAC '95 law.

21 Q Were you the only BRAC officer involved in the
22 closure of Adak?

23 A Oh, no.

24 Q What other BRAC officers were involved in the
25 closure of Adak, to your knowledge?

11:03 1 scheduled service under a MTMC contract.

2 Q M-T-M-C?

3 A Yes. And I don't recall what MTMC stands for.
4 I apologize.

11:03 5 It was a frequency schedule, and what we tried
6 to do was ^{COORDINATE} ~~just if there were things that were~~ ^{WHAT WAS} going to
7 leave the island ^{AND L} ~~is they~~ insure it was all pre-staged
8 prior to the arrival of the barge so the barge could get
9 a reasonable turnaround.

11:03 10 Q Why were you, as a representative from AIRPAC,
11 involved in getting things off the island in the '95
12 through '97 time frame?

13 A I guess, under my responsibilities as a BRAC
14 officer, I was responsible for what they call personal
11:04 15 property disposition.

16 Now, the individual pieces that came off I did
17 not schedule, but I helped mediate or mitigate those
18 instances where a piece of property would be requested
19 by the LRA or requested by someone, and then in the
11:04 20 mitigation allowing them to retain it, or if it had a
21 specific military use, to insure that it was taken off
22 the island.

23 I coordinated that with a number of other
24 agencies or other departments within the Navy. For
11:04 25 example, if we had equipment that was aircraft specific

04 1 to the P-3's, that would not be retained by an LRA
2 because they would have absolutely no use for it, so I
3 would characterize that as government specific, and then
4 arrange through the supply officer, who at the time, the
04 5 last supply officer was Commander Rod Duggins, to have
6 that shipped off the island at the most economical means
7 available.

8 Q So when the base had been operating prior to
9 announcement of closure, those kinds of decisions would
05 10 more completely fall within the area controlled by the
11 supply officer or transportation officer?

12 A Yes.

13 Q Someone of that --

14 A Yes. Under a normal scenario under base
05 15 operations, the supply officer is the person responsible
16 for manifesting cargo and requesting cargo, so he is
17 requesting any of the supplies, and that supply chain,
18 depending upon how unique -- Adak was unique in that
19 there was no road.

05 20 You either got it by air or by barge.

21 There were certain things that would lend
22 themselves well to barge traffic, which is just about
23 everything, and then there were certain things that lent
24 themselves only to air traffic, things like fresh fruits
06 25 and vegetables that were perishables, or personnel. You

11:06 1 certainly wouldn't put personnel on the barge. You
2 would fly them out.

3 But that would come under the purview of the
4 supply officer under normal operating.

11:06 5 Q And how is that different, in general, once the
6 closure was announced.

7 A Once the closure was announced, the only real
8 difference is the disposal of personal property because
9 now you were taking an active duty base and drawing it
11:06 10 down and providing that equipment necessary for reuse
11 and then removing that equipment, not necessarily, not
12 required for reuse that had another military specific
13 application someplace else.

14 Q What controlled the decision-making process for
11:06 15 what would be left as something necessary for reuse?

16 A Well, let me answer this a little bit
17 differently.

18 Say, for example, you have a building. In that
19 building you have 10 rooms, and it's a large maintenance
11:06 20 facility. If I went in and took everything out of that
21 building, it would just be an empty building with no
22 specific characterization as to what each one of those
23 rooms was designed for.

24 However, when you walk in there and you see one
11:07 25 room, there's a machine shop, the next room is a wood

11:07 1 working shop, the next room is a battery shop, you go in
2 there, say, okay, what are those pieces of equipment
3 that would generally be found in a machine shop that are
4 not government specific, that becomes what they call
11:07 5 related personal property.

6 Under that definition, that is a machine shop
7 because of the equipment in it not because of the four
8 walls that surround it.

9 So I would, we would take a look at those
11:07 10 pieces of equipment that are generally found in
11 industry.

12 If it's an engine, ^ulathe, the broaching
13 machine, it's nothing exotic or unique to the military
14 application, then it would be considered related
11:07 15 personal property, and it could be left for use by the
16 reuse authority.

17 That was all predicated on the plan that the
18 reuse authority put together, and I don't recall the
19 specific title of that plan, but basically a reuse plan
11:08 20 and how they were going to reuse all of these assets.

21 Q Sorry.

22 A So the decision would be made based on partly
23 their reuse plan, and the characterization of the
24 equipment as it related to the facility.

11:08 25 Q And what is the BRIM, B-R-I-M?

11:13 1 period of time, declined involvement.

2 Q Did you come to the conclusion that it was not
3 cost effective to remove the metal from the scrap dump?

4 A No.

11:13 5 Q Was that what this individual you talked to in
6 Tacoma indicated?

7 A He only indicated that he did not have an
8 interest in removing it. I don't know if he looked at
9 it from an economic aspect or logistics aspect. I
11:13 10 couldn't tell what drove his decision.

11 Q Do you know whether the scrap was ever taken
12 off the island?

13 A It was not taken off, it was capped over.

14 Q How do you know that?

11:13 15 A Bob Urich, at one of the meetings we had up
16 there in -- near closure, I don't recall the precise
17 date -- that's when they decided the decision was made
18 to cap over the landfill.

19 Q Did Bob Urich tell you that?

11:14 20 A It was eith Bob or Brian Andvik. I mean, we
21 were all kind of together at the time.

22 Probably the person that could give you that,
23 easiest to access here, would be Brian Andvik. Brian
24 can probably give you the correct answer.

11:14 25 Q While you were involved in the Adak operation

11:14 1 ever see any scrap metal being taken out of that
2 landfill?

3 A No, not that I saw.

4 Q Would you in your position have had knowledge
11:14 5 if such a thing occurred?

6 A Probably not. No one would come to me and say,
7 "Hey, we are pulling scrap out of the pile."

8 Q Did you at any time come to any understanding
9 or believe that that had happened?

11:14 10 A No.

11 Q Were you ever told during your involvement with
12 Adak that you should use the Samson Barge contract?

13 A Yes. The whole purpose of the barge contract
14 was, at least -- let me back up.

11:15 15 Whenever you pull something out of a facility,
16 we were directed to use the most economical means
17 available to dispose of property, so there was, given
18 there was only two avenues for us to remove property off
19 of Adak, that being air or barge, the barge was
11:15 20 certainly the most economical.

21 So when we directed things to be moved off,
22 they would have gone by barge for the most part.

23 Q During the course of your career, did you have
24 any involvement with logistics?

11:15 25 A Yes.

11:15 1 Q In what way?

2 A Well, I was designated a logistics subspecialty
3 while I was in the Navy, primarily just about every
4 phase of my military career involved logistics in one
11:16 5 form or another.

6 As an air crewman, we flew in logistics
7 aircraft, C-118's, C-9's. As a pilot, I flew H-46's,
8 which is a cargo aircraft, so we were generally
9 stationed aboard ships that were supply type of ships,
11:16 10 AOR's, oilers, as I said previously, and the supporting
11 carriers.

12 So everything we did was centered around
13 logistics or search and rescue, they call combat
14 support.

11:16 15 The greater majority of our work was
16 transporting loads, equipment, material, munitions from
17 one ship to another or to beach units, supply to the
18 Marines on the beach, things of that nature.

19 Q When closure was first being discussed
11:16 20 regarding Adak, was there the general thought that you
21 might have to remove a lot of things from the island?

22 A That's hard to say. We took a look at, the
23 base had already drawn down to a certain degree, so
24 because it was now an unaccompanied tour, so a lot of
11:17 25 the families were no longer there and those things that

1 supported the families, household goods shipments, large
2 household goods shipments had already been removed from
3 the island, much of that CESE, Combat Engineering
4 Support Equipment, much of that that was on the island
5 was rather old.

6 They had what they called a deadline out there,
7 and it was old equipment that was no longer operational
8 but still provided a cannibalizing capability they could
9 pull parts off of, so we started taking a look at things
10 of that nature as to what would come off and what would
11 stay.

12 The other things we looked at what's called
13 IMRL, which is the Individual Materials Requirement
14 List, acronym IMRL, is aircraft specifically designed
15 for the operational aircraft that were ^{Deployed to} ~~stationed at~~
16 Adak.

17 There's supply assets that go back into the
18 supply system that we removed, but generally a lot of
19 that stuff had been already drawn down, and then we had
20 to take a look at what the LRA wanted to retain, some of
21 the supply material that they would be able to
22 legitimately retain, facility type of support equipment,
23 paint, wood, plumbing supplies, things you would
24 generally require to maintain a facility, fuel supply to
25 operate the generators.

11:18 1 So when we first took a look at it, we realized
2 there would not be a tremendous amount that would come
3 off the island at that point.

4 Q That there would not be?

11:18 5 A No.

6 Q Do you know at what point the local reuse
7 authority actually came up with its plan?

8 A As, by the time I had ceased involvement, they
9 still had not completed a comprehensive plan, to my
11:19 10 knowledge.

11 Q And did that plan have something to do with
12 what would be removed from the island?

13 A The plan would help define what they wanted to
14 retain. As far as what would be removed from the
11:19 15 island -- up front, we knew that the mission-specific
16 items that supported the P-3 Charlie aircraft out there
17 would be removed. That's owned by the squadron, that
18 equipment, or it's owned by what they call the GSE pool,
19 Ground Support Equipment, and the pool is managed --
11:19 20 it's a pool of equipment -- it's managed by AIRPAC down
21 in San Diego COMNAVAIRPAC.

22 Q C-O-M-N-A-V-P-A-C?

23 A Yeah, C-O-M-N-A-V-A-I-R-P-A-C, my boss. They
24 managed that pool inventory, and those types of items
11:20 25 were redistributed to Whidbey Island where the P-3's